



### **PROGRESS REPORT**

The parties initially met with the Special Discovery Master on December 9, 2015, and made substantial progress in resolving many of the discovery disputes referred to the Special Discovery Master. The parties met a second time with the Special Discovery Master on January 5, 2016, and made further progress in resolving the outstanding discovery disputes. Following the January 5, 2016, meeting, the parties continued to meet and confer in an attempt to resolve the few remaining discovery disputes. On February 26, 2016, the parties met for a third time with the Special Discovery Master and confirmed that they had resolved all of the discovery disputes identified in plaintiff's October 5, 2015, Motion to Compel. The parties will confer and memorialize the resolution of each of the issues raised in plaintiff's Motion to Compel and will provide a copy of their documentation of the resolution of each issue to the Special Discovery Master for his file.

The parties agree, and the Special Discovery Master recommends, that the Court should enter an Order denying plaintiff's Motion to Compel as moot.

At the January 5, 2016, and February 26, 2016, meetings, the parties also discussed the coordination and number of depositions. The parties have agreed on a number of issues related to depositions, but one issue—the amount of time necessary to complete depositions—was not resolved and will be the subject of a separate Decision and Recommendation by the Special Discovery Master. The parties have agreed that defendant will take up to fourteen depositions of individuals whom it has identified.<sup>1</sup> They also have agreed that plaintiff can take up to thirty-two

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<sup>1</sup> These individuals are Joseph McGee, Sr.; Raymond Abrams; Rocco DiGerolamo; James McGee; Christopher DeLuca; Derek Dunn; Ryan Franchetti; David Hale; Adrian Lauria; John Michael McGee; Joseph P. McGee, Jr.; Kevin Redmond; Joseph Reed; and Louis Carruolo.

depositions, including no more than seven Farfield executives,<sup>2</sup> seven Farfield payroll and administrative employees,<sup>3</sup> four Farfield foremen,<sup>4</sup> twelve Farfield tradespeople,<sup>5</sup> and six government agency employees<sup>6</sup> (but, again, no more than thirty-two in total). While the parties have identified the individuals whose depositions they expect to take, they understand that, as the depositions occur, new information may be discovered regarding individuals who have relevant information and new names may replace some of the identified deponents. The expectation, however, is that most of the deponents will come from the parties' lists of likely deponents identified in this Progress Report. In any event, the parties have agreed that they will give each other at least 20-days' notice of any deposition.

After some discussion at the February 26, 2016, meeting, the parties agreed that all depositions of current Farfield officers and employees will take place in the Lancaster area, at a mutually acceptable location that offers sufficient technological capabilities to ensure that the parties have access to all discovery material needed for conducting the depositions.

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<sup>2</sup> The seven executives identified at this point are Dennis Pierce; Ed Nescott; Scott Anton; Gene Hale; Ed Krzanowsky; John Kleimo; and Frank DiGiacamo.

<sup>3</sup> These seven individuals are Dave Fishel; Robert Jackson; Dave Pennington; Fred Cuthbert; Chris Derr; Michelle Claar/Toburen; and Becky Mossburg.

<sup>4</sup> The four foremen currently identified are Bob McCue; Chad Weaver; Harold Minnet; and Michael Bootie.

<sup>5</sup> The identified tradespeople are Thaddeus Atkin; Michael Bates; James Bender; Robert Cosey; John Grandowicz; Jeremy Hackman; Justin Kilgore; Jesse Kolarz; Matthew Miller; Claude Stevens; James Thomas; and Chad Weaver.

<sup>6</sup> The agency employees would come from the United States Department of Labor, the Pennsylvania Department of Labor, the United States Department of Transportation, SEPTA and PATCO. The SEPTA and PATCO deponents would be the Project Supervisor/Engineer who worked on or had supervisory responsibility over the relevant projects and/or communicated with Farfield regarding job progress.

The parties acknowledge that discovery is an ongoing process and certain issues that were resolved based on the parties' current understanding of the facts and the available documents may be raised again at a later date if additional discovery discloses a different set of facts or the availability of additional documents. The parties understand that this is not an excuse for constantly revisiting resolved issues but simply a recognition that neither party has waived its right to seek particular discovery at a later date if good cause exists for pursuing such discovery at that time, consistent with the Federal Rules of Civil Procedure.

The Special Discovery Master notes that he was very impressed by all counsel's professional, cooperative, and productive manner throughout this process, and commends them for their efforts in resolving the vast majority of disputed discovery issues.

Respectfully submitted,

/s/ Bruce P. Merenstein  
Bruce P. Merenstein, Special Discovery Master

Dated: February 29, 2016

**CERTIFICATE OF SERVICE**

I, Bruce P. Merenstein, hereby certify that on February 29, 2016, I caused to be electronically filed the foregoing **Third Progress Report of the Special Discovery Master**. Through the Court's ECF system, this document is available for viewing and downloading.

/s/ Bruce P. Merenstein

Bruce P. Merenstein